

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

HEATHER L. WEBSTER,

SUMMONS

Plaintiff,

INDEX NO.

-against-

DAVID E. CURTIS, and AFTON CENTRAL
SCHOOL DISTRICT,

Defendants.

THE ABOVE NAMED DEFENDANTS ARE HEREBY SUMMONED, to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Attorney for Plaintiff within twenty (20) days after the service of this Summons, exclusive of the day of service or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

COUNTY DESIGNATED AS THE PLACE OF TRIAL: Broome

BASIS OF VENUE: Presence and location of Defendant and Residence of Plaintiff

DATE: September 18, 2019


Thomas E. Schimmerling, Esq.

SCHIMMERLING INJURY LAW OFFICES

Attorney for Plaintiff

102 West Main Street

Endicott NY 13760

(607) 785-8888

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

HEATHER L. WEBSTER,

VERIFIED COMPLAINT

Plaintiff,

INDEX NO.

-against-

DAVID E. CURTIS, and AFTON CENTRAL
SCHOOL DISTRICT,

Defendants.

Plaintiff, by Thomas E. Schimmerling, Esq., complaining of the Defendants, alleges and states as follows:

1. This is a case of Plaintiff Heather L. Webster (hereafter "Plaintiff") who was sexually abused as a teenager by David E. Curtis (hereafter, "Defendant Curtis") at the Afton Central School, and other locations.
2. At all times herein mentioned, Defendant Curtis was the Principal of the Afton Central School.
3. At all times herein mentioned, the Defendant Afton Central School District, (hereinafter, "Defendant School District") was and continues to be situated in Broome and Chenango Counties.
4. Upon information and belief, at all times hereinafter mentioned, the Defendant School District, was and continues to be a public school, and/or the governing body of a public school, duly organized and existing under the laws of the State of New York.
5. The Summons and Complaint in this action has been filed and served within the

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statute of limitations for commencement of an action under GML §50-e and Education Law §3813-2, as amended by the Child Victims Act enacted and signed into law on February 14, 2019 (S. 2440 and A. 2683).

6. At all times hereinafter mentioned, Defendant Curtis was an employee of the Defendant School District.
7. Upon information and belief, at all times hereinafter mentioned, the Defendant School District, its agents, servants and/or employees, had a duty to exercise reasonable care to protect its students and third parties from sexual predators.
8. At all times hereinafter mentioned, the Defendant School District, its agents, servants, and/or employees had a duty to thoroughly investigate and screen candidates seeking employment particularly in teaching and/or administrative positions.
9. At all times hereinafter mentioned, the Defendant School District, its agents, servants, and/or employees had a duty to require adequate references of candidates seeking employment and to check and investigate these references for accuracy and reliability.
10. At all times hereinafter mentioned, the Defendant School District, its agents, servants, and/or employees had a duty to supervise and monitor its employees, administrators and officials.
11. During all times herein mentioned, the Defendant School District had customs, policies, practices, and procedures of permitting Defendant Curtis to have unsupervised secured privacy with students.

12. During the years 1989 to 1990, and/or in the years prior or subsequent thereto, Defendant School District, its agents, servants, and/or employees, administrators and officials knew or should have known of the sexual assault and molestation of the Plaintiff by Defendant Curtis.
13. The Defendant School District was negligent and careless in hiring, retaining, and supervising Defendant Curtis; ignoring, condoning, enabling, facilitating inappropriate conduct and inappropriate sexual contact and conduct by Curtis; failing to report the aforementioned complaints and conducts, failing to remedy the aforementioned complaints and conduct; and in allowing such conduct to persist.
14. Plaintiff Webster's injuries were due to the negligence and carelessness of the Defendant School District, its agents, servants and/or employees as outlined above, by negligently and carelessly hiring, retaining and supervising Curtis thereby enabling the sexual assault and molestation of Plaintiff Webster.
15. The Afton Central School District knew, or should have known, that Curtis sexually abused young children, including students of the school, and/or that he had a propensity to sexually abuse young children, including students of the school.
16. In and about 1989- 1990, Plaintiff was a student at the school under the supervision of Principal Curtis.
17. In and about 1989- 1990, Defendant Curtis sexually abused Plaintiff by utilizing his position of power, provided by the School District, to manipulate and sexually abuse her.
18. Plaintiff brings this lawsuit to recover for the emotional and physical suffering she incurred because of the negligence of the Afton Central School District.

19. Plaintiff additionally brings this lawsuit to recover for the emotional and physical suffering she endured due to the predatory, intentional and malicious sexual actions of Defendant Curtis directed towards her.
20. Additionally, Plaintiff brings this lawsuit to ensure that no other child is forced to suffer the abuse and physical and mental trauma she felt and continues to feel.
21. At all times herein mentioned, Defendant Curtis was a Principal operating under the direction and control of the Defendant School District, and its agents, servants, and/or employees.
22. At all times herein mentioned, Defendant Curtis was an agent, servant and/or employee of Defendant School District.
23. Defendant Curtis sexually assaulted Plaintiff Webster while Plaintiff was a student at the Defendant School District. The Defendant School District failed to remove Defendant Curtis from his position as a principal or to take any steps to keep the dangerous predator away from the students at the school.
24. As a result of the actions of Defendant Curtis, Plaintiff felt and continues to feel ashamed, embarrassed, and humiliated.
25. As such, Plaintiff suffered catastrophic and lifelong injuries as a result of Defendant School District's negligence in undertaking a duty to keep its employees, including children of its school(s) safe from predators and failing to act in accord with that duty by allowing Defendant Curtis to continue his role where he would continue to have the opportunity to prey on children.

AS AND FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE

AS FOR AFTON CENTRAL SCHOOL DISTRICT

26. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designed 1 through 25 inclusive, with the same force and effect as if hereafter set forth at length.
27. At all times herein mentioned, Defendant School District owed a duty of care to the young children, including students of their schools and plaintiff, to be safe from sexual abuse by the Principal under their supervision and control, including on school premises, that ultimately befell the Plaintiff, including in *locis parentis*.
28. At all times mentioned herein, Defendant School District and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted.
29. As a result of the negligence of Defendant School District and/or its agents, servants and/or employees, Plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
30. By reason of the foregoing, Plaintiff is entitled to compensatory damages from Defendants in such sums as a jury would find fair, just and adequate.
31. By reason of the foregoing, Plaintiff is entitled to punitive damages from Defendants in such sums as a jury would find fair, just and adequate.
32. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
33. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE SECOND CAUSE OF ACTION FOR
NEGLIGENT HIRING, RETENTION AND SUPERVISION
AS TO THE AFTON CENTRAL SCHOOL DISTRICT**

34. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designed 1 through 33 inclusive, with the same force and effect as if hereafter set forth at length.
35. Defendant School District had a duty to supervise and prevent known risks of harm to the children of its schools.
36. Defendant School District was negligent in hiring, retaining and supervising their personnel, such as Defendant Curtis, who were reckless, unskilled, negligent, careless, and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of principal and or other school staff who should have properly been supervising the principals to ensure the safety of the children.
37. Defendant School District should have known Defendant Curtis sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.
38. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
39. By reason of the foregoing, Plaintiff is entitled to compensatory damages from Defendants in such sums as a jury would find fair, just and adequate.
40. By reason of the foregoing, Plaintiff is entitled to punitive damages from Defendants in such sums as a jury would find fair, just and adequate.

41. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
42. This action falls within exceptions to Article 16 of the C.P.L.R.

**AND AS FOR THE THIRD CAUSE OF ACTION FOR ASSAULT
AS TO DAVID CURTIS**

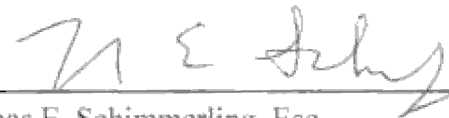
43. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designed 1 through 42 inclusive, with the same force and effect as if hereafter set forth at length.
44. Defendant Curtis's predatory, abusive, manipulative and unlawful acts against Plaintiff, created a reasonable apprehension in Plaintiff of immediate harmful or offensive contact to Plaintiff's person, all of which were done intentionally by Defendant Curtis to Plaintiff without Plaintiff's consent.
45. As a direct and proximate result of the aforementioned assault, Plaintiff has sustained in the past, and will continue to sustain in the future, serious and severe psychological injuries and emotional distress, mental anguish, embarrassment and humiliation.
46. As a direct and proximate result of the aforementioned assaults, Plaintiff has incurred medical expenses and other economic damages, and will now be obligated to expend sums of money for medical care and attention in effort to cure herself of her injuries and to alleviate pain and suffering, emotional distress, mental anguish, embarrassment and humiliation.
47. By reason of the foregoing, Plaintiff is entitled to compensatory damages from

Defendants in such sums as a jury would find fair, just and adequate.

48. By reason of the foregoing, Plaintiff is entitled to punitive damages from Defendants in such sums as a jury would find fair, just and adequate.
49. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
50. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, Plaintiff demands judgement against the Defendants in an amount of money that exceeds the monetary jurisdiction of all other Courts, together with punitive damages and interest, costs, attorney's fees and disbursements of this action.

DATE: September 18, 2019

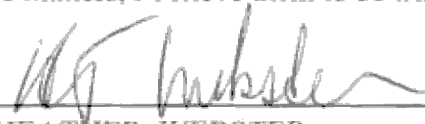


Thomas E. Schimmerling, Esq.
SCHIMMERLING INJURY LAW OFFICES
Attorney for Plaintiff
102 West Main Street
Endicott, NY 13760
(607) 785-8888

VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF BROOME)

Heather Webster, being duly sworn, deposes and says that: I am the Plaintiff in the within action; I have read the foregoing Verified Complaint and know the contents thereof; the contents of the Verified Complaint are true to my knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.


HEATHER WEBSTER

Subscribed and sworn to before me
this 10 day of September, 2019.


Notary Public

THOMAS E. SCHIMMERLING
Notary Public, State of New York
Qualified in Delaware County
No. 4651747
Commission Expires 12/31/19